REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED - PHILIPPINE ROHQ,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9102

Members:
BAUTISTA, *Chairperson,*
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:
JUL 0 2 2018
8:50 a.m.

x--x

DECISION

BAUTISTA, J.:

The Case

The Petition for Review[1] prays for the Court to render judgment declaring petitioner to be entitled to a refund or issuance of a tax credit certificate ("TCC") of its unutilized input value-added tax ("VAT") arising from zero-rated sales for calendar year ("CY") 2013 in the amount of Php7,895,079.66.[2]

The Parties[3]

Petitioner Citco International Support Services Limited – Philippine ROHQ ("Citco") is a foreign company duly organized and existing under the laws of the Cayman Islands and licensed to do business in the Philippines as a regional operating headquarters

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[1] *Records, CTA Case No. 9102, Vol. 1, Petition for Review ("PFR"),* pp. 12-73, with annexes.
[2] *Id., Prayer,* p. 20.
[3] *Id., Vol. 1, Joint Stipulation of Facts and Issues ("JSFI"), Summary of Admitted Facts, par. 1,* p. 372.

("ROHQ") with principal office address at the 20th Floor Philamlife Tower, 8767 Paseo de Roxas Avenue, Makati City. It is a VAT-registered taxpayer under Bureau of Internal Revenue ("BIR") Certificate of Registration No. 9RC0000419141[4].[5]

Respondent Commissioner of Internal Revenue ("CIR") is the duly appointed CIR with office address at the BIR Building, Diliman, Quezon City.[6]

The Facts

For CY 2013, petitioner filed its Quarterly VAT Returns (BIR Form No. 2550-Q), which reflected the following entries:

TAXABLE QUARTER	OUTPUT TAX DUE	TOTAL ALLOWABLE INPUT TAX	NET VAT PAYABLE (OVERPAYMENT)	TAX CREDITS/ PAYMENTS	TOTAL AMOUNT PAYABLE (OVERPAYMENT)
1st (Original)[7]	-	Php 2,587.59	Php (2,587.59)	-	Php (2,587.59)
2nd (Original)[8]	-	4,942,165.88	(4,942,165.88)	-	(4,942,165.88)
2nd (Amended)[9]	-	4,939,578.29	(463,512.89)	-	(463,512.89)
3rd (Original)[10]	-	7,069,763.85	(7,069,763.85)	-	(7,069,763.85)
3rd (Amended)[11]	-	2,591,110.86	(888,700.33)	-	(888,700.33)
4th (Amended)[12]	-	3,514,047.36	-	-	-

On March 27, 2015, petitioner filed its administrative claim for refund[13] of the unutilized input VAT for the period March 1, 2013 to December 31, 2013. As a result, Letter of Authority ("LOA")-050-2015-00000119 was issued on April 23, 2015 authorizing Revenue Officer Villaflor Lagundi and Group Supervisor Susana Santos to examine petitioner's books of accounts and other accounting records for VAT for the period March 1, 2013 to December 31, 2013, pursuant to the mandatory audit of claims for VAT refunds.[14]

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[4] *Records, Vol. 2, Exhibit "P-11," BIR Certificate of Registration,* p. 782.
[5] *Id., Vol. 1, JSFI, Summary of Admitted Facts, par. 3,* p. 372.
[6] *Id., par. 2,* p. 372.
[7] *Independent Certified Public Account ("ICPA") Exhibits, Box 1, Folder 6, Exhibit "P-445," BIR Form No. 2550Q, 1st Quarter Original.*
[8] *Id., Exhibit "P-446," BIR Form No. 2550Q, 2nd Quarter Original.*
[9] *Records, Vol. 2, Exhibit "P-13," BIR Form No. 2550Q, 2nd Quarter Amended,* p. 786.
[10] *ICPA Exhibits, Box 1, Folder 6, Exhibit "P-447," BIR Form No. 2550Q, 3rd Quarter Original.*
[11] *Records, Vol. 2, Exhibit "P-14," BIR Form No. 2550Q, 3rd Quarter Amended,* p. 788.
[12] *Id., Exhibit "P-15," BIR Form No. 2550Q, 4th Quarter Amended,* p. 790.
[13] *Records, Vol. 2, Exhibit "P-17," Application for Tax Credits/Refunds (BIR Form No. 1914),* p. 796; *Records, Vol. 2, Exhibit "P-18," Letter dated February 16, 2015,* pp. 797-801.
[14] *Records, Vol. 2, Exhibit "P-19," Letter of Authority,* p. 802.

On June 22, 2015, petitioner received respondent's letter[15] dated June 17, 2015 wherein respondent denied petitioner's claim for VAT refund for failure to comply with the requirements under *Revenue Memorandum Circular ("RMC") No. 54-2014*[16] since the invoices issued by petitioner's suppliers were either not certified true copies or not covered by Authorities to Print.[17]

On July 22, 2015, petitioner filed the present Petition for Review[18].

On October 8, 2015, respondent filed his Answer[19] by registered mail wherein he argues, among others, that petitioner failed to demonstrate that the tax being claimed for refund was erroneously or illegally collected, and that petitioner's claim for refund was not fully substantiated by proper documents (*e.g.*, sales invoices, official receipts).

Respondent's Pre-Trial Brief[20] was filed on January 18, 2016, while petitioner's Pre-Trial Brief[21] was filed on January 28, 2016. Thereafter, a pre-trial conference was held on February 2, 2016.[22] Together, the parties filed the Joint Stipulation of Facts and Issues[23] on February 16, 2016, which was approved by the Court in a Pre-Trial Order[24] dated March 7, 2016.

During trial, petitioner presented the following witnesses: *(1)* Ms. Olga T. Ponce, petitioner's Finance Manager;[25] and *(2)* Atty. Adan T. Delamide, the Court-commissioned Independent Certified Public Accountant ("ICPA") for the case.[26]

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[15] *Records, Vol. 2, Exhibit "P-20," Letter dated June 17, 2015*, p. 804.
[16] June 11, 2014.
[17] *Records, Vol. 1, JSFI, Summary of Admitted Facts, pars. 4 and 5*, p. 373;
[18] *Id., PFR*, pp. 12-73, with annexes.
[19] *Id., Answer*, pp. 102-104.
[20] *Id., Respondent's Pre-Trial Brief*, pp. 112-114.
[21] *Id., Petitioner's Pre-Trial Brief*, pp. 117-124.
[22] *Id., Minutes of Hearing dated February 2, 2016*, p. 366.
[23] *Records, Vol. 1, JSFI*, pp. 372-376.
[24] *Id., Pre-Trial Order*, pp. 383-388.
[25] *Records, Vol. 1, Minutes of Hearing dated May 16, 2016*, p. 501; *Records, Vol. 1, Exhibit "P-1," Affidavit in Lieu of Direct Examination of Ms. Olga T. Ponce*, pp. 137-155.
[26] *Records, Vol. 2, Minutes of Hearing dated June 13, 2016*, p. 576; *Records, Vol. 2, Exhibit "P-21," Affidavit in Lieu of Direct Examination of Atty. Adan T. Delamide*, pp. 507-520.

Petitioner filed its Formal Offer of Evidence[27] on June 28, 2016 wherein it offered *Exhibits* "P-1," "P-1-A," "P-2," "P-2-A," "P-2-B," "P-3," "P-4," "P-5," "P-6," "P-7," "P-8," "P-9," "P-10," "P-11," "P-12," "P-12-A," "P-13," "P-13-A," "P-14," "P-14-A," "P-15," "P-16," "P-17," "P-17-A," "P-18," "P-18-A," "P-19," "P-20," "P-20-A," "P-21," "P-21-A," "P-22," "P-22-A," "P-23" to "P-28," "P-29" to "P-47," "P-48" to "P-64," "P-65" to "P-79," "P-80" to "P-97," "P-98" to "P-121," "P-122" to "P-140," "P-141" to "P-155," "P-156" to "P-175," "P-176" to "P-184," "P-185" to "P-197," "P-198" to "P-279," "P-280" to "P-398," "P-399" to "P-441," "P-442," "P-443," "P-443-1," "P-444," "P-445," "P-445-1," "P-446," "P-446-1," "P-446-2," "P-447," "P-447-1," "P-447-2," "P-448," "P-448-1," "P-448-2," "P-449" to "P-470," "P-471" to "P-491," "P-492" to "P-495," "P-496" to "P-499," "P-500," "P-500-1," "P-501," "P-502," "P-503," "P-504," and "P-505." Respondent filed his Comment (To Petitioner's Formal Offer of Evidence)[28] on June 30, 2016 by registered mail. In Resolutions dated August 10, 2016 and October 27, 2016, the Court admitted all of petitioner's evidence.[29]

On the other hand, respondent presented its sole witness, Revenue Officer Villaflor A. Lagundi, the person authorized to conduct the examination of petitioner's books of accounts and other accounting records pursuant to the LOA.[30]

Respondent submitted his Formal Offer of Evidence[31] on May 9, 2017 by registered mail wherein he offered *Exhibits* "R-1," "R-1-a," "R-2" and "R-3," "R-2-a," "R-4" to "R-32," "R-33," "R-33-a," "R-34" to "R-41," "R-39-a," "R-39-b," "R-40-a," "R-42," and "R-42-a." Petitioner filed its Comment/Opposition to Respondent's Formal Offer of Evidence[32] on May 26, 2017. In a Resolution[33] dated June 2, 2017, the Court admitted all of respondent's evidence.

Petitioner filed its Memorandum[34] on July 13, 2017, while respondent failed to submit his memorandum despite due notice.[35]

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[27] *Records, Vol. 2, Formal Offer of Evidence for Petitioner Citco International Support Services Limited – Philippine ROHQ,* pp. 578-594.
[28] *Id., Comment (To Petitioner's Formal Offer of Evidence),* pp. 811-812.
[29] *Records, Vol. 2, Resolution,* pp. 815-816; *Records, Vol. 2, Resolution,* pp. 840-841.
[30] *Records, Vol. 2, Minutes of Hearing dated April 24, 2017,* p. 849; *Records, Vol. 1, Exhibit "R-42," Judicial Affidavit of Revenue Officer Villaflor A. Lagundi,* pp. 447-452.
[31] *Records, Vol. 2, Formal Offer of Evidence,* pp. 852-855.
[32] *Id., Comment/Opposition to Respondent's Formal Offer of Evidence,* pp. 904-908.
[33] *Id., Resolution,* pp. 910-911.
[34] *Id., Memorandum for Petitioner Citco International Support Services Limited – Philippine ROHQ,* pp. 918-934.
[35] *Id., Records Verification Report,* p. 935.

Thereafter, on August 3, 2017, the Court issued a Resolution[36] submitting the case for decision; hence, this Decision.

The Issue[37]

> WHETHER PETITIONER IS ENTITLED TO A REFUND IN THE TOTAL AMOUNT OF PHP7,895,079.66, REPRESENTING UNUTILIZED AND EXCESS INPUT VAT ATTRIBUTABLE TO ZERO-RATED SALES FOR CY 2013.

Petitioner's Arguments[38]

Petitioner alleges that it is entitled to its claim for refund and in support thereof, argues the following: *(1)* the grounds cited by respondent denying petitioner's VAT refund claim are devoid of legal basis; and *(2)* petitioner is entitled to a refund in the total amount of Php7,257,910.16 representing the duly substantiated unutilized and excess creditable input VAT attributable to zero-rated sales for CY 2013, considering petitioner is a VAT-registered taxpayer engaged in zero-rated export sales of services, petitioner filed its administrative claim for refund within two (2) years from the end of the quarter when the zero-rated transactions were made, and the unutilized excess input VAT is attributable to petitioner's zero-rated transactions to the extent that its input tax has not been applied against its output tax.

Respondent's Counter-Arguments[39]

Respondent makes the following counter-arguments: *(1)* petitioner failed to demonstrate that the tax which is the subject of the case was erroneously or illegally collected; *(2)* taxes paid and collected are presumed to be made in accordance with laws and regulations, hence, not refundable; *(3)* it is incumbent upon petitioner to show that it has complied with the provision of *Section 204(C)* in relation to *Section 229 of the National Internal Revenue Code of 1997, as amended (the "1997 NIRC")*[40]; *(4)* petitioner's claim for refund or issuance of TCC as

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[36] *Records, Vol. 2, Resolution,* p. 937.
[37] *Id., Vol. 1, Pre-Trial Order, Issue,* p. 384.
[38] *Id., Vol. 2, Memorandum for Petitioner Citco International Support Services Limited – Philippine ROHQ, Arguments,* pp. 924-930.
[39] *Id., Vol. 1, Answer, Special and Affirmative Defenses,* pp. 102-103.
[40] *Republic Act No. 8424,* as amended (1997).

alleged excess and unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales of services for CY 2013 was not fully substantiated by proper documents; *(5)* in an action for tax credit or refund, the burden is on the taxpayer to prove his entitlement thereto and failure to discharge said burden is fatal to the claim; and *(6)* claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation and as such are looked upon with disfavor.

The Ruling of the Court

The Petition for Review is partly meritorious.

In *Luzon Hydro Corporation v. CIR*[41], the Supreme Court summarized the requisites for granting claims for refund or tax credit for unutilized input VAT following *Section 112(A) of the 1997 NIRC*, as follows:

1. The taxpayer is VAT-registered;

2. The taxpayer is engaged in zero-rated or effectively zero-rated sales;

3. The input taxes are due or paid;

4. The input taxes are not transitional input taxes;

5. The input taxes have not been applied against output taxes during and in the succeeding quarters;

6. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales;

7. For zero-rated sales under *Sections 106(A)(2)(1) and (2), 106(B), and 108(B)(1) and (2)*, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas ("BSP")*;

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[41] G.R. No. 188260, November 13, 2013, 709 SCRA 462.

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8. Where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and

9. The claim is filed within two (2) years after the close of the taxable quarter when such sales were made.

Keeping the foregoing requisites in mind, the Court will now discuss whether petitioner complied with the same in the present case. At the outset, however, the Court will first determine whether petitioner's claim for refund was filed within the required prescriptive period.

The administrative and judicial claims for refund of petitioner were timely filed.

Section 112 of the 1997 NIRC provides the prescriptive periods for filing administrative and judicial claims for refund of unutilized or excess input VAT. The relevant provisions state:

> Sec. 112. *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax; *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas (BSP)*; *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales;

> *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

Meanwhile, in *Mindanao II Geothermal Partnership v. CIR*[42], the Supreme Court summarized the rules on prescriptive periods for filing claims for refund of unutilized input VAT, as follows:

1. An administrative claim must be filed with the CIR within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made;

2. The CIR has one hundred twenty (120) days from the date of submission of complete documents in support of the administrative claim within which to decide whether to grant a refund or issue a TCC;

3. A judicial claim must be filed with the Court of Tax Appeals ("CTA") within thirty (30) days from receipt of the CIR's decision denying the administrative claim or from the expiration of the one hundred twenty (120)-day period without any action from the CIR; and

4. All taxpayers, however, can rely on *BIR Ruling No. DA-489-*

[42] G.R. Nos. 193301 & 194637, March 11, 2013, 693 SCRA 49.

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03[43] from the time of its issuance on December 10, 2003 up to its reversal by the Supreme Court in the case of *CIR v. Aichi Forging Company of Asia, Inc.*[44] on October 6, 2010, as an exception to the mandatory and jurisdictional 120+30 day periods.

As applied to the present case, petitioner complied with the prescribed periods. Petitioner filed its administrative claim for refund of unutilized excess input VAT for CY 2013 on March 27, 2015, which is within two (2) years from March 31, 2013 - the close of the earliest taxable quarter being claimed for refund (*i.e.,* first quarter of CY 2013).[45] Within the one hundred and twenty (120)-day period, respondent issued the letter denying petitioner's claim for refund, which letter was received by petitioner on June 22, 2015.[46] Within thirty (30) days from receipt of respondent's letter (*i.e.,* on July 22, 2015), petitioner filed its judicial claim for refund. Accordingly, petitioner filed its administrative and judicial claims within the prescriptive periods.

Having ruled that petitioner's administrative and judicial claims were timely filed, the Court will now go into the substance of petitioner's claim to determine its entitlement to the refund sought.

Petitioner is VAT-registered.

It is undisputed that petitioner is registered with the BIR as a VAT taxpayer as evidenced by its BIR Certificate of Registration No. 9RC0000419141 and Taxpayer's Identification Number 008-438-837-000.[47]

Petitioner partially proved that it was engaged in zero-rated sales, which were paid for in foreign currency in accordance with *BSP* rules and regulations.

In its Quarterly VAT Returns (BIR Form No. 2550-Q) for CY 2013,

[43] Dated December 10, 2003.
[44] G.R. No. 184823, October 6, 2010, 632 SCRA 422.
[45] *See Records, Vol. 2, Exhibit "P-17," Application for Tax Credits/Refunds (BIR Form No. 1914),* p. 796; *Records, Vol. 2, Exhibit "P-18," Letter dated February 16, 2015,* pp. 797-801.
[46] *See Records, Vol. 1, JSFI,* p. 373; *Records, Vol. 2, Exhibit "P-20," Letter dated June 17, 2015,* p. 804.
[47] *Records, Vol. 2, Exhibit "P-11," Bureau of Internal Revenue Certificate of Registration,* p. 782.

petitioner declared its total zero-rated sales amounting to Php253,406,339.74, broken down as follows:

PERIOD	ZERO-RATED SALES/RECEIPTS	EXHIBIT
1st Qtr. of 2013	Php 0.00	P-12
2nd Qtr. of 2013	78,632,275.21	P-446
3rd Qtr. of 2013	75,553,797.87	P-14
4th Qtr. of 2013	99,220,266.66	P-448
TOTAL	**PHP 253,406,339.74**	

Petitioner avers that during CY 2013, it rendered qualifying services of an ROHQ, such as fund administration/financial services, to its affiliates which are engaged in the financial business conducted outside of the Philippines. Petitioner's services are allegedly export services which are billed in foreign currency and paid in United States ("US") dollars remitted inwardly through the banking system and accounted for in accordance with the rules and regulations of the BSP. As such, petitioner argues that its export sales of services are entitled to the benefit of VAT zero-rating under *Section 108(B) of the 1997 NIRC*, the relevant provisions of which state:

> Sec. 108. *Value-Added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.*- The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> > (1) Processing, manufacturing or repacking of goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas (BSP);*
> >
> > (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with

> the rules and regulations of the *Bangko Sentral ng Pilipinas (BSP)*;
>
> (3) Services rendered to persons or entities whose exemption under special laws or international agreements to which Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;
>
> xxx xxx xxx

In *CIR v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[48], the Supreme Court held that in order for the supply of services to be VAT zero-rated under *Section 108(B)(2) of the 1997 NIRC*, the following requisites must be satisfied:

1. The services must be other than processing, manufacturing or repacking of goods;

2. The recipient of such services is doing business outside the Philippines; and

3. The payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations.

As regards the first requisite, Ms. Ponce[49], petitioner's Finance Manager, stated that petitioner provides business process services, mainly technical support, data processing, and business development services[50]. Its clients are only affiliated Citco companies domiciled outside the Philippines. These services clearly fall within the scope of services "other than processing, manufacturing or repacking of goods" contemplated under *Section 108(B)(2) of the 1997 NIRC*.

In compliance with the second requisite, petitioner presented the following documents proving that the recipients of the services are doing business outside the Philippines:

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[48] G.R. No. 153205, January 22, 2007, 512 SCRA 124.
[49] *Records, Vol. 1, Exhibit "P-1," A:7 and A:8*, p. 139.
[50] *Records, Vol. 2, Master Service Agreement, Schedule 1*, pp. 606 to 611; *ICPA Exhibits, Box 1, Folder 6, Exhibit "P-442," Certificate of Registration and License.*

1. Certification of Authentication (Certificate of Registered Office);[51]

2. Articles of Incorporation of Foreign Affiliates;[52]

3. SEC Certificate of Non-Registration of Company;[53] and

4. Master Service Agreement.[54]

As to the third requisite, *Sections 113(A)(2), (B)(1), (2)(c) and (3) of the 1997 NIRC of 1997* as implemented by *Sections 4.113-1(A)(2), (B)(1) and (2)(c) of Revenue Regulations ("RR") No. 16-05*[55], provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties and for every sale, barter, or exchange of services, issue a VAT official receipt which must contain the required information detailed as follows:

> Sec. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* -
>
> (A) *Invoicing Requirements.* - A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or

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[51] *Records, Vol. 2, Exhibits "P-4" to "P-10,"* pp. 757-780.
[52] *ICPA Exhibits, Box 1, Folder 7, Exhibits "P-449" to "P-470."*
[53] *Id., Exhibits "P-471" to "P-491."*
[54] *Records, Vol. 2, Exhibit "P-2," Master Service Agreement,* pp. 595-756.
[55] September 1, 2005.

is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided,* That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term "**zero-rated sale**" shall be written or printed prominently on the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and

xxx xxx xxx

Sec. 4.113-1. *Invoicing Requirements.*

(A) A VAT-registered person shall issue:-

xxx xxx xxx

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) *Information contained in VAT invoice or VAT official receipt.* - The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:
>
> xxx xxx xxx
>
> (c) If the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;

Pursuant to the foregoing provisions, the foreign currency remittances referred to under *Section 108(B)(2) of the 1997 NIRC* must likewise be supported by VAT zero-rated official receipts.

As previously stated, petitioner declared a total amount of Php253,406,339.74 as zero-rated sales for CY 2013. In support thereof, petitioner submitted various documents, such as: *(1)* Summary of Zero-Rated Sales *per* VAT Returns,[56] *(2)* Summary of Zero-Rated Sales,[57] *(3)* Schedule of Zero-Rated Sales and Peso Equivalent,[58] *(4)* JP Morgan Chase Bank Certification,[59] *(5)* Advice of Credit,[60] and *(6)* Official Receipts.[61]

Upon examination of the documents presented, only the amount of Php223,859,147.55 is considered to be valid zero-rated sales. The amount of Php29,547,192.19 should be denied for reasons stated hereunder:

EXH.	OR NO.	DATE OF OR	CUSTOMER	ZERO-RATED SALES *PER* VAT OR (USD)	EXCHANGE RATE	ZERO-RATED SALES (PHP)	REASONS
P-23	0001	12-Apr-13	THE CITCO GROUP LIMITED	7,381.22	40.99	302,526.68	OR Without signature
P-24	0002	12-Apr-13	CITCO FUND SERVICES HOLDINGS LIMITED	290,000.00	40.99	11,885,940.00	OR Without signature
P-25	0003	12-Apr-13	CITCO FUND SERVICES CAYMAN ISLANDS LIMITED	250,000.00	40.99	10,246,500.00	OR Without signature
P-26	0004	12-Apr-13	CITCO C AND T HOLDINGS LUXEMBOURG SARL	3,775.63	40.99	154,747.97	OR Without signature
P-27	0005	12-Apr-13	CITCO VILNIUS UAB	10,883.10	40.99	446,054.74	OR Without signature
P-28	0006	12-Apr-13	CITCO BANK AND TRUST COMPANY LIMITED	45,000.00	40.99	1,844,370.00	OR Without signature
P-40	0019	13-May-13	CITCO FUND SERVICES SAN FRANCISCO INC	991.13	40.63	40,268.62	OR Without date
P-137	0518	14-Oct-13	CITCO C AND T HOLDINGS LUXEMBOURG SARL	74,561.22	42.89	3,198,296.08	OR Without signature
P-138	0519	14-Oct-13	B AND C TECHNOLOGY LTD	33,302.05	42.89	1,428,488.10	OR Without signature
			TOTAL	715,894.35		29,547,192.19	

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[56] *Records, Vol. 1 Exhibit "P-22," ICPA Report, Annex A,* p. 404.
[57] *Id., Exhibit "P-22," ICPA Report, Annex C,* p. 406.
[58] *Id., Annex D,* pp. 407-410.
[59] *ICPA Exhibits, Box 1, Folder 2, Exhibit "P-185."*
[60] *Id., Exhibits "P-186" to "P-197."*
[61] *Id., Folder 1, Exhibits "P-23" to "P-175."*

Petitioner's input taxes are due or paid, and are attributable to zero-rated or effectively zero-rated sales.

After resolving that petitioner had VAT zero-rated sales for the four quarters of CY 2013 in the aggregate amount of Php223,859,147.55, the Court shall now proceed with the determination of whether petitioner incurred or paid input taxes in connection thereto.

In its Quarterly VAT Returns for the first to fourth quarters of CY 2013, Citco reported input VAT in the total amount of Php9,695,110.88, broken down as follows:

QUARTER	INPUT VAT		EXHIBIT
1st Quarter	Php	2,587.59	P-12
2nd Quarter		4,939,578.29	P-13
3rd Quarter		2,127,597.97	P-14
4th Quarter		2,625,347.03	P-15
TOTAL	**PHP**	**9,695,110.88**	

To determine the accuracy of petitioner's declaration, the ICPA examined petitioner's documents[62] in support of its claim for refund. Based on his examination, the ICPA came up the following findings:

	INPUT VAT		EXH. REF. "P-22"
Purchase of Goods:			
Purchases of Goods supported by VAT Invoices	Php	3,458,306.39	Annex J of ICPA Report
Purchases of Goods supported by VAT Invoices not in the buyer's name		87,093.21	Annex K of ICPA Report
Purchases of Goods supported by VAT ORs		173,566.07	Annex L of ICPA Report
Sub-Total	Php	3,718,965.67	Annex I of ICPA Report
Purchase of Services:			
Purchases of Services supported by VAT ORs	Php	3,742,915.50	Annex N of ICPA Report
Purchases of Services supported by VAT ORs where input taxes not claimed in full		110,556.77	Annex O of ICPA Report
Purchases of Services supported by VAT ORs with over-claimed input tax		2,682.45	Annex P of ICPA Report
Purchases of Services supported by VAT ORs not not showing the buyer's name		286.35	Annex Q of ICPA Report
Purchases of Services supported by VAT ORs dated outside the period of claim		216,767.66	Annex R of ICPA Report

[62] *Petitioner's FOE Folder, Folder 2, Exhibits "P-4-15-1" to "P-4-15-20;" Petitioner's FOE Folder, Folder 1, Exhibits "P-4-15-21" to "P-4-15-34."*

Purchases of Services supported by photocopy of VAT ORs	11,933.03	Annex S of ICPA Report
Purchases of Services supported by ORs with TIN but without the word VAT	2,687.53	Annex T of ICPA Report
Purchases of Services supported by documents other than VAT ORs	77,640.06	Annex U of ICPA Report
Purchases of Services supported by Non-VAT ORs	31,420.07	Annex V of ICPA Report
Sub-Total	4,196,889.42	Annex M of ICPA Report
Unsupported Input Taxes	1,781,485.43	Annex X of ICPA Report
TOTAL	PHP 9,697,340.52	

A comparison of input VAT *per* VAT Returns against the ICPA findings reveals that there is a difference of Php2,229.64 (Php9,695,110.88 less Php9,697.340.52). The ICPA noted that the difference pertains to erroneous recording of input taxes and the remaining amount which is unaccounted for. Thus, the difference of Php2,229.65 should be denied accordingly.

Upon further study and evaluation of the above findings, this Court is in accord with the ICPA's finding. However, the Court holds that additional input VAT in the amount of Php568,707.09 should be denied for reasons stated hereunder:

EXHIBIT	SUPPLIER'S NAME	INPUT TAX	REASON
P-261	Microgenesis Business Systems	Php 22,392.86	VAT amount was hand written in a computerized Invoice without counter signature
P-268	Gateway Network Solutions Inc.	26,517.86	VAT was not separately indicated
P-280	Somerest Olympia Makati Serviced Residences	45,990.01	OR date not readable
P-303	WPR Realty & Management Corporation	302,400.00	VAT not separately indicated
P-343	MediCard Philippines, Inc.	98,924.00	Payment for Output VAT
P-351	Bulldog Security Agency Inc.	452.95	OR with pre-printed "TIN" only without the word "VAT"
P-356	MediCard Philippines, Inc.	63,993.70	Payment for Output VAT
P-361	Corporate Apartments International (Manila) Inc.	8,035.71	VAT not separately indicated
	TOTAL	PHP568,707.09	

From the foregoing, out of the total input VAT in the amount of Php9,697,340.52, only Php6,630,285.16 was supported by valid official receipts[63], invoices[64], and schedules[65]; while the input VAT of Php3,067,055.36 should be disallowed for not being properly substantiated by supporting documents as prescribed under *Sections 110(A), 113(A) and (B) and 237 of the 1997 NIRC*, computed as follows:

Total Input VAT		**Php9,697,340.52**
Less:		
Difference	Php 2,229.64	

[63] *ICPA Exhibits, Box 1, Folder 4, Exhibits "P-280" to "P-398."*
[64] *Id., Folder 3, Exhibits "P-198" to "P-279."*
[65] *Records, Vol. 1, Exhibit "P-22," ICPA Report, Annexes A to X,* pp. 404-441.

Annex K of ICPA Report	87,093.21	
Annex L of ICPA Report	173,566.07	
Annex O of ICPA Report	110,556.77	
Annex P of ICPA Report	2,682.45	
Annex Q of ICPA Report	286.35	
Annex R of ICPA Report	216,767.66	
Annex S of ICPA Report	11,933.03	
Annex T of ICPA Report	2,687.53	
Annex U of ICPA Report	77,640.06	
Annex V of ICPA Report	31,420.07	
Annex X of ICPA Report	1,781,485.43	
Additional Disallowance	568,707.09	Php 3,067,055.36
TOTAL VALID INPUT VAT		**PHP 6,630,285.16**

Petitioner's Quarterly VAT Returns for the subject period of claim[66] showed that it had no output tax liability against which the claimed input VAT may be applied or credited. Considering petitioner's reported sales for the four quarters of CY 2013 were all zero-rated amounting to Php253,406,339.74, the total input VAT of Php9,697,340.52 is entirely attributable thereto. However, out of the Php6,630,285.16 valid input VAT, only Php5,857,193.91 correlates to the valid zero-rated sales of Php223,859,147.55, computed as follows:

DETAILS	AMOUNTS	
Valid Input VAT		Php 6,630,285.16
Multiply		
Valid Zero-Rated Sales	Php223,859,147.55	88.34%
Total Zero-Rated Sales	253,406,339.74	
EXCESS SUBSTANTIATED INPUT VAT		**PHP 5,857,193.91**

Petitioner's excess substantiated input tax was deducted as "VAT Refund/TCC Claimed" and "Others."

Finally, the Court finds that out of the total input VAT of Php9,695,110.88 for CY 2013, the amount of Php7,892,492.07 (Php4,476,065.40[67] plus Php1,702,410.53[68] plus Php1,1714,016.14[69]) was

[66] *Records, Vol. 2, Exhibit "P-12," Quarterly VAT Return (BIR Form No. 2550-Q), line 19B,* p. 783; *ICPA Exhibits, Box 1, Folder 6, Exhibit "P-446," BIR Form 2550Q, line 19B; Records, Vol. 2, Exhibit "P-14," Quarterly VAT Return (BIR Form No. 2550-Q), line 19B,* p. 788; *ICPA Exhibits, Box 1, Folder 6, Exhibit "P-448," BIR Form 2550Q, line 19B.*
[67] *Records, Vol. 2, Exhibit "P-13," Amended 2nd Quarterly VAT Return CY 2013, line 23D,* p. 786.
[68] *Id., Exhibit "P-14," Amended 3rd Quarterly VAT Return CY 2013, line 23D,* p. 789.
[69] *Id., Exhibit "P-15," Amended 4th Quarterly VAT Return CY 2013, line 23D,* p. 790.

deducted as "VAT Refund/TCC Claimed" in the quarter it was incurred; Php2,587.59[70] represents unutilized input VAT for the 1st quarter of CY 2013 but was not carried over to the 2nd quarter of CY 2013[71]; and the remaining Php1,800,031.22 was deducted as "Others"[72] from the total available input tax of Php3,514,047.36.[73] Thus, the claimed input taxes for the four quarters of CY 2013 could not have been carried over or utilized in the succeeding taxable periods.

In view of the foregoing, the Court finds that petitioner has sufficiently proven its entitlement to a refund in the reduced amount of **Php5,857,193.91**, representing unutilized input VAT attributable to its zero-rated sales for the four quarters of CY 2013.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Respondent Commissioner of Internal Revenue is hereby **ORDERED** to refund in favor of petitioner Citco International Support Services Limited - Philippine ROHQ the amount of **Five Million Eight Hundred Fifty-Seven Thousand One Hundred Ninety-Three Pesos and 91/100 (Php5,857,193.91)** representing the latter's unutilized input value-added tax arising from its zero-rated sales for calendar year 2013.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[70] *Records, Vol. 2, Exhibit "P-12," Original 1st Quarterly VAT Return CY 2013, line 29*, p. 788.
[71] *Id., Exhibit "P-13," Amended 2nd Quarterly VAT Return CY 2013, line 20A*, p. 786.
[72] *Id., Exhibit "P-15," Amended 4th Quarterly VAT Return CY 2013, line 23E*, p. 790.
[73] *Id., line 22*, p. 790.

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution* and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice